

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Order Instituting
Investigation on the Commission's Own Motion
into the Operations and Practices of Laurie Rose
Nelson-Akst, an Individual Doing Business As
All America Express Moving and Storage (T-189,
147), and of All America Express Moving and
Storage Services, Inc., a California Corporation,
and its President, Laurie Rose Nelson-Akst, and
Vice-President, Etay Akst.

Respondents

Investigation 02-09-001

**SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER
AND ADMINISTRATIVE LAW JUDGE**

Summary

This document outlines the procedural requirements for respondents Laurie Rose Nelson-Akst and All America Express Moving and Storage Services, Inc. to defend themselves against the allegations set forth in the Order Instituting Investigation (OII).

A prehearing conference (PHC) was conducted on Wednesday, December 18, 2002. Notice of the PHC was sent to the service list, including respondents, on December 9, 2002. Neither respondents nor their representatives appeared at the PHC, nor did they contact the Commission to explain their absence.

It is important that respondents read this ruling carefully, since it outlines the procedures they must follow if they wish to present their case or

defense in the matter before the California Public Utilities Commission. Respondents are advised that they have the right to have an attorney or other representative assist them in their presentation before the Commission.

Respondents may obtain general information on Commission proceedings by calling the Commission's public advisor at 213-576-7055.

This Scoping Memo sets forth the procedural schedule, confirms the assignment of the presiding officer, and confirms the scope of the proceeding. It also addresses procedural issues that will facilitate the efficient processing of this investigation.

Schedule

At the PHC, the following schedule was adopted. Respondents are advised that if they fail to serve by mail their written testimony at the time set out below, **they will be deemed to have waived the opportunity to present their affirmative case at the hearing.**

Respondents and the Consumer Protection and Safety Division (CPSD) shall advise Administrative Law Judge (ALJ) Bemederfer in writing whether they plan to cross-examine witnesses at the hearing and include their time estimates for cross-examination no later than the date indicated in the following schedule, **or they will forfeit their right to conduct cross-examination at the hearing.**

Date	Event
January 17, 2003	CPSD shall serve supplemental testimony or declarations from witnesses who will not be able to attend the hearing.

January 31, 2003

Respondents shall serve testimony addressing the allegations and evidence advanced by CPSD in the OII and the related declaration of Toni D. Crowley, as well as any supplemental testimony CPSD may serve on January 17, 2003. Respondents should put their proposed testimony in writing and SERVE or mail this testimony to each person in the service list attached to this Scooping Memo as Attachment A. Respondents should NOT file the testimony with the Commission's Docket Office, but bring the original and two copies to the hearing. **As stated above, if respondents fail to serve this testimony, they will have waived their right to present an affirmative case at the evidentiary hearing.**

February 7, 2003

CPSD serves reply testimony.

February 13, 2003

Telephone PHC at 10 a.m. The purpose of this PHC is to determine if respondents are prepared to go forward with the evidentiary hearing.

March 4-6, 2003 commencing at 9 a.m. on March 4.

Evidentiary hearing at the Commission's Courtroom, 505 Van Ness Avenue, San Francisco, CA.

April 4, 2003

Parties file and serve opening briefs.

April 18, 2003

Parties file and serve reply briefs.

No later than June 2, 2003

Presiding Officer's Decision.

Our goal is to resolve this case as soon as possible, and we anticipate that the resolution will not exceed 12 months from the date of filing the investigation, pursuant to Pub. Util. Code § 1701.2(d).¹

Scope of Proceeding

The OII and accompanying declaration of Toni D. Crowley set forth in detail CPSD's allegations against respondents. The scope of the proceeding is framed by the OII and accompanying declaration of Crowley.

Category of Proceeding

The OII categorized this investigation as an adjudicatory proceeding and stated that hearings were necessary. The time for appealing the Commission's category determination has passed. (Rules 6(c)(1) and 6.4.)

Presiding Officer

Pursuant to Rule 6(c), Assigned Commissioner Brown designates ALJ Bemmesderfer as the presiding officer.

Service List

The service list for this proceeding is attached to this Scoping Memo as Attachment A. Parties are required to serve all pleadings, testimony, etc., on the Appearances and State Service categories, and may, but are not required to, serve such documents on the Information Only list. Persons designated as Information Only do not have status to appeal a Commission decision.

Communications with Decisionmakers (Ex Parte Communications)

¹ Section 1701.2(d) states that adjudication cases shall be resolved within 12 months of initiation unless the Commission makes findings why that deadline cannot be met and issues an order extending that deadline.

Pursuant to Pub.Util. Code § 1701.2(b), ex parte communications are **PROHIBITED** in this proceeding. For example, a party or any other person who has a financial interest in this proceeding is prohibited from speaking with a decisionmaker on a substantive issue in this case. (See Pub. Util. Code §§ 1701.1, 1701.2 and Rules 5 and 7 of the Rules of Practice and Procedure for specific rules on ex parte communications.)

Other Matters

If the parties have discovery disputes they are unable to resolve by meeting and conferring, they should raise these disputes with the Commission pursuant to the procedures set forth in Resolution ALJ-164, a copy of which is attached as Attachment B. As general guidance for the parties in discovery, although the Commission is not bound to follow the California Code of Civil Procedure (CCP) in discovery matters, ALJ Bemesderfer generally relies on the CCP when the Commission's discovery rules are silent, unless it is reasonable under the circumstances to deviate therefrom.

IT IS RULED that:

1. The schedule and issues to be addressed are set forth in this Scoping Memo, unless subsequently modified later by Assigned Commissioner or assigned Administrative Law Judge (ALJ) directive.
2. If respondents fail to serve testimony before or at the time designated in the schedule set forth above, they will have waived their right to present an affirmative case at the evidentiary hearings.
3. If the parties fail to notify ALJ Bemesderfer in writing as to whether they plan to cross-examine witnesses at the hearing and their time estimates for cross-examination, on or before the time designated in the schedule set forth above, they will forfeit their right to conduct cross-examination at the hearing.
4. ALJ Bemesderfer is the presiding officer in this investigation.

5. The service list for this proceeding is attached as Attachment A.
6. Parties shall comply with Commission procedure for raising discovery disputes. (See Attachment B.)
7. Pursuant to Pub. Util. Code § 1701.2(b), ex parte communications are prohibited.

Dated January 8, 2003, at San Francisco, California.

/s/ GEOFFREY F. BROWN

Geoffrey F. Brown
Assigned Commissioner

/s/ KARL J. BEMESDERFER

Karl J. Bemesderfer
Assigned Administrative Law Judge

I.02-09-001 KJB/hkr** ATTACHMENT A: SERVICE LIST ******

Last Update on 07-JAN-2003 by: SMJ

******* APPEARANCES *******

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(END OF ATTACHMENT A)

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Attachment B
Resolution ALJ-164

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge on all parties of record in this proceeding or their attorneys of record.

Dated January 8, 2003, at San Francisco, California.

/s/ KE HUANG

Ke Huang

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.